

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** County and Township Assessors

**FROM:** Courtney L. Schaafsma, Commissioner

**RE:** Legislative Changes Affecting Assessment of Big Box & Commercial Non-income Producing Properties

**DATE:** May 18, 2015

On May 6, 2015, Governor Pence signed into law Senate Enrolled Act 436-2015 ("SEA 436"), which introduces legislative changes concerning assessment of big box retail stores and certain commercial non-income producing properties. This memorandum addresses these changes. Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

## **I. Assessment of Big Box Retail Stores, IC 6-1.1-4-43**

Section 8 of SEA 436 adds IC 6-1.1-4-43, effective retroactive to March 1, 2014.

### *A. Applicability*

This section applies to real property that is

- (1) a limited market or special purpose property that would commonly be regarded as a big box retail building under standard appraisal practices and is at least 50,000 square feet; and
- (2) occupied by the original owner or by a tenant for which the improvement was built.

This section, however, does not apply to multi-tenant income producing shopping centers, as defined by the Appraisal Institute Dictionary of Real Estate Appraisal (5<sup>th</sup> Edition).

Please note that IC 6-1.1-4-43 applies to the assessment of big box retail stores for the March 1, 2014 assessment date and all assessment dates thereafter.

### *B. Requirement to Use Cost Approach*

Under IC 6-1.1-4-43, valuation of big box retail stores must be done in the following manner:

- (1) Land must be assessed separately from the improvements on the land (i.e., the big box retail store). An assessment or appeal of the land value may be based on the market value of comparable land.
- (2) For big box retail stores with an effective age of ten years or less, the cost approach must be used. Depreciation and obsolescence must be factored into the assessment pursuant to the Department of Local Government Finance's ("Department") rules.

### *C. Appeal of Big Box Retail Store Assessments*

If a taxpayer owns a big box retail store assessed using the above method (i.e., as an improvement with an effective age of ten or fewer years) and files an appeal of that assessment after April 30, 2015, the taxpayer must provide the assessor with official information concerning actual construction costs of the property. The taxpayer must include “all relevant and reasonably available information concerning the actual construction costs” before the scheduled property tax assessment board of appeals (“PTABOA”) hearing. The PTABOA may not review the appeal until the taxpayer provides this information. If the taxpayer’s proof of construction costs demonstrates the construction costs are greater than the cost values established under Department rules, then depreciation and obsolescence are to be deducted from the construction costs and not from the cost values.

## **II. Assessment of Commercial Non-income Producing Properties, IC 6-1.1-4-44**

Section 9 of SEA 436 adds IC 6-1.1-4-44, effective retroactive to March 1, 2014.

### *A. Applicability*

This section applies to commercial non-income producing property (meaning all non-agricultural, non-residential property that does not produce income), including sale-leaseback property for the March 1, 2014 assessment date and all assessment dates thereafter. Note that this also applies to any assessment date if an appeal is pending before the PTABOA or Indiana Board of Tax Review. As with IC 6-1.1-4-43, this section does not apply to multi-tenant income producing shopping centers.

For purposes of this section, “sale-leaseback” means a transaction in which one party sells a property to a buyer, and the buyer leases the property back to the seller.

### *B. Limitation on Sales Comparison Approach*

In determining the true tax value of commercial non-income producing property, including sale-leaseback property, which has improvements with an effective age of ten years or less under the rules of the Department, a comparable real property sale may not be used if the comparable real property:

- A. as of the assessment date, has been vacant for more than one year (or for more than five years if it is industrial property);
- B. has significant restrictions placed on the use of the property by a recorded covenant, easement, restriction, or other encumbrance on its use;
- C. was sold and is no longer used for the purpose, or similar purpose, for which the property was used by the original occupant or tenant; or
- D. the property was not sold in an arm’s length transaction.

## **Contact Information**

Questions may be directed to Assessment Division Director Barry Wood at (317) 232-3762 or [bwood@dlgf.in.gov](mailto:bwood@dlgf.in.gov).